

REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Upon entry of this amendment, claims 1-9 and 22-50 are pending in the application. By this amendment, claims 1-9 and 22-30 have been amended and new claims 31-50 have been added.

In paragraph 1 of the office action, claims 22-30 are withdrawn from consideration. Claims 22-30 have been amended to teach a "headband arrangement" so that it clearly falls within the elected invention. Accordingly, rejoinder and examination of claims 22-30 is respectfully requested.

Claims 1-7 are rejected under 35 U.S.C. §102(b) by Magidson (U.S. Patent No. 5,829,062). This rejection is respectfully traversed.

Magidson does not disclose a headband arrangement having a flexible band body comprising upper and lower band portions for transmitting the mask holding forces required for applying the breathing mask, wherein at least portions of the band body are made of a foamed plastic material as recited in claim 1. In contrast, Magidson discloses a headband ear protector apparatus including a headband 12 and ear protectors 14. Such headband 12 clearly does not provide upper and lower band portions for transmitting mask holding forces. Also, col. 3, lines 25-27 of Magidson merely discloses that ear protectors or ear buds 14 may be made of foam, and fails to disclose that at least portions of the band body are made of a foamed plastic material.

Withdrawal of the rejection of claim 1 is respectfully requested.

Claims 2-7 are allowable by virtue of their dependence on claim 1 and additionally allowable for their recitation of additional patentable features.

Claims 1 and 4-9 are rejected under 35 U.S.C. §102(b) by Madaus et al (US 2004/0025882). This rejection is respectfully traversed.

Madaus (US 2004/0025882) does not qualify as prior art under §102(b) as its publication date (February 12, 2004) is not more than one year prior to at least the PCT filing date (November 11, 2004) of the subject application.

Withdrawal of the rejection of claims 1 and 4-9 under Madaus (US 2004/0025882) is respectfully requested.

New claims 31-50 have been added. Entry and allowance of these new claims is respectfully requested.


In view of the above amendments and remarks, Applicants respectfully submit that all claims are patentable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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